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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

LNV CORPORATION **Plaintiff,** **v.** **DENISE SUBRAMANIAM** **pro per** **Defendant**	**Civil Case No. 3:14-cv-01836** **DEFENDANT'S NOTICE OF CONSTITUTIONAL QUESTIONS**

DEFENDANT'S NOTICE OF CONSTITUTIONAL QUESTIONS

Here comes Defendant Denise Subramaniam, representing herself, and incorporates herein all her prior pleadings in these two noticed related cases *Subramaniam v. Beal et al*, Case No. 3:12-cv-01681-MO and *Subramaniam v. Beal* Case No: 3:2014cv01482 and all her pleadings in the present case; she also incorporates herein the Notice of Constitutional Questions filed by the other pro-se litigants opposing LNV Corporation ("LNV") in the noticed related cases; and Pursuant to Federal Rules 28 U.S.C. § 2403 and 5.1(a)(1) she hereby makes notice of the following constitution questions:

Defendant challenges the constitutionality Title 18 U.S.C. § 4 which states:

> "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

In other noticed related cases specifically in *LNV Corporation v. Gebhardt, Case No. 3:12-CV-468-TAV-HBG* and *LNV v. Breitlings; Case No. DC-14-04053* in the Dallas Civil District Court of Texas and *Breitlings v. LNV; Case No. 314-cv-03322* the MGC/LNV/Beal victims as pro-se litigants opposing LNV in foreclosure related cases filed motions for judicial notice of the criminal indictment and conviction of Lorraine Brown by the United States for "Conspiracy to Commit Mail and Wire Fraud". *United States of America v. Lorraine Brown, Case No. 3:12-cr-198-J-25 MCR, (M.D. Fla.)* In each case these pro-se litigants in the noticed related cases attached to their motions the necessary information to be noticed. Their motions were pursuant to Federal Rule 201(c)(2) which states:

> "The court **must** take judicial notice if a party requests it and the court is supplied with the necessary information."

In each of these cases the presiding judge either ignored or denied these motions for judicial notice of adjudicative fac. The statue seems clear in its language that judges do not have discretion but **MUST** take judicial notice of such adjudicative fact; THEREFORE these judges appear to have abused their discretion in these cases. In noticed related case for debtors Christopher and Marcia Swift *In the United States Bankruptcy Court for the Northern District of Illinios, Eastern Division; Case No. 12-35690*; presiding judge Donald R. Cassling told the Swifts at a pre-trial hearing on April 28, 2015:

> "THE COURT: No, I do not want to take judicial notice of those cases."

(See Exhibit A attached hereto which is page 100 of 163 pages of the transcript for this hearing – for brevity only this page and the cover page of the transcript is provided but the entire transcript is available for inspection by the court if requested.)

In *LNV Corporation v. Gebhardt, Case No. 3:12-CV-468-TAV-HBG*, U.S. District Court Eastern District of Tennessee at Knoxville, Judge Thomas A. Varlan appears to have violated this federal rule by denying Appellant's motion for judicial notice of adjudicative fact. Defendant, Gebhardt, the Breitlings, Rhonda Hardwick, the Swifts, Tuli Molina, Kelly Randle, Cammy Depew, Rebekah Gentry-Youngblood, David Gates, Robynne A. Fauley and dozens of other Beal victims too fearful of Beal's retaliation to be publically named herein are also victims of the crimes of Lorraine Brown and her co-conspirators.

Daniel Andrew "Andy" Beal, owner of Plaintiff LNV, his attorneys, his employees and his agents and their employees commit the same crimes for which Lorraine Brown was convicted and incarcerated. In the court cases of many of the aforementioned Beal victims and in the noticed related cases motions for judicial notice of the adjudicative facts in the criminal indictment and conviction of Lorraine Brown for conspiracy to commit mail and wire fraud were filed pursuant to 18 U.S. Code § 371 and which are relevant to facts specific to standing where LNV is attempting to deprive or has already unconstitutionally deprived Defendant and the other pro-se litigants opposing LNV in the noticed related cases of their property; and in many these cases the judges whether state or federal abused judicial discretion and ignored or denied these motions for judicial notice of the criminal conviction of Lorraine Brown. Such abuse of judicial discretion may cause, or has caused, a deprivation of these pro-se litigant's constitutional rights to due process and equal protection of law under the fifth and fourteenth amendments to the United States Constitution.

Adjudicative facts in the criminal conviction of Lorraine Brown include:

a. Lorraine Brown had co-conspirators.

b. Lorraine Brown's co-conspirators have not yet been prosecuted for their crimes.

c. Lorraine Brown committed her crimes through Lender Processing Services, ("LPS")

d. At the direction of Brown and other co-conspirators employees of LPS began forging and falsifying signatures of mortgage-related documents and filed them with property recorders offices across the country.

e. Lorraine Brown's co-conspirators used other unauthorized employees to sign mortgage-related documents on their behalf knowing that the documents would be notarized as if the co-conspirator has signed the document, when he/she had not.

f. Between 2003 and 2009 it is estimated that over 1 million fraudulently signed and notarized mortgage-related documents were produced through the crimes of Lorraine Brown and her co-conspirators and filed with property recorders' offices across the country.

Adjudicative facts from the Lorraine Brown criminal conviction are relevant to the present case and to litigation between LNV (and other business entities controlled by D. Andrew Beal) and the other pro-se litigants in the noticed related cases and many other "Beal victims" for the following reasons:

a. LNV and MGC (both owned and controlled by Andy Beal) and their agents (LPS Service Providers Nortwest Trustee Services, RCO Legal, Codilis & Stawairski, Dovenmuhlhe and others) have forged and falsified mortgage-related documents and filed them with property recorders' offices across the country; and/or have knowingly used such forged documents in foreclosure cases with intent to deceive courts.

b. Defendant in the present case, and the other Beal victims claim that their mortgage related records are the products of the crimes of Lorraine Brown and her co-conspirators; and have provided the courts with evidence to substantiate their claims.

c. The courts continue to accept these forged and falsified mortgage-related documents as genuine (ignoring adjudicative fact to the contrary) and routinely grant summary judgments or dismissals in favor of LNV and parties like it.

d. The United States Attorney General has determined that parties who forge and falsify mortgage-related documents and file them with property recorders' offices across the country are guilty of the federal criminal offence of mail and wire fraud. (Lorraine Brown was convicted by the United States.)

e. The United States has already proven the criminal conspiracy exists.

f. The United States has already proven Lorraine Brown had co-conspirators; and since those co-conspirators haven't yet been indicted or convicted it stands to reason they may still be committing crimes consistent with her criminal conspiracy.

g. Defendant in the present case, and the other Beal victims claim that Daniel Andrew "Andy" Beal is one of Lorraine Brown's co-conspirators and that he knowingly uses the products of Brown's crimes stored in the LPS Desktop computer software with intent to deceive courts and thereby wrongfully deprive Defendant and others of their property. Beal's employee, Bret Maloney, admitted in a deposition the Beal enterprise entities and their agents use the LPS Desktop.

h. A Beal employee, Jim Chambless, admitted in an email to he sent to WFAA investigative reporter, Brett Shipp, to fabricating mortgage-related documents to "cure" a break in the chain of title to Breitlings' property. This email was forwarded to the Breitlings for their comment.

In each of the noticed related cases the pro-se litigants opposing LNV detailed how deed assignments, affidavits, purported allonges to their Notes and even the Notes themselves had been robo-signed, forged and falsified in a manner consistent with the crimes of Lorraine Brown, and how LNV and it owner, D. Andrew Beal, knew these deed assignments, purported allonges to their Notes and even the Notes themselves had been forged and falsified; and he admitted to investigative reporter Brett Shipp through his employee Jim Chambless, Senior Marketing Communications Specialist at Beal Bank, that he not only uses such falsely fabricated documents but that he creates them to cure breaks in the chain of title and he alleges it is legal to do this.

No matter what LNV and its owner, Daniel Andrew "Andy" Beal, claim publically the evidence shows he knows foreclosing on properties using robo-signed, forged and falsified mortgage related documents such as deed assignments, affidavits, purported allonges to Notes and forged Notes is a crime. He knows this because in a letter dated October 4, 2010 sent by the Texas Attorney General to MGC Mortgage Inc. ("MGC") also owned by Daniel Andrew "Andy" Beal. (See Exhibit B attached hereto.) In this letter the Texas Attorney General makes it clear to MGC that foreclosing using "robosigned" (i.e. forged documents with false signatures and false statements pertaining to the grantor/grantee or assignor/assignee). mortgage related documents was a violation of a host of Texas civil statutes and Texas penal code. Attorney Peter G.

Weinstock of Hunton & Williams LLP in a letter dated October 31, 2010 stated: "MGC does not use 'robosigners' in its foreclosure process." (See Page 2, number 1 of this letter in Defendant's Exhibit B.) If this is/was true then why do we now have so many LNV/MGC/LPP/Beal victims claiming otherwise and showing evidence to courts that indicates otherwise? In the same paragraph of his letter, Weinstock also states: "MGC has reached out to virtually all the law firms it employs for such purposes. The vast majority have responded. They have indicated that they also do not use such practices either."

If this is/was true then why has Defendant, the Breitlings, the Swifts, Gebhardt and the other Beal victims in the noticed related cases shown to their respective courts evidence that mortgage related documents submitted to these courts by Beal's LNV or LPP Mortgage Ltd. ("LPP") or MGC and/or by Beal's LPS agent Dovenmuehle Mortgage Inc. ("DMI") and/or Beal's LPS affiliated attorneys are indeed "robosigned" and/or falsified and otherwise forged?

Defendant's prior related case, *Subramaniam v. Beal et al*, Case No. 3:12-cv-01681-MO, resulted from a non-judicial foreclosure action brought against her with a trustee sale of her property scheduled in September 2012 by Defendant LNV, its LPS affiliated attorney RCO Legal PS fka Routh Crabtree Olsen PS ("RCO") and its "trustee" counterpart LPS affiliated Northwest Trustee Services ("NWTS"). (Note both RCO and NWTS are owned by attorney Stephen Routh, who like Beal knows he is using robosigned and forged documents in foreclosures.)

LPS affiliated RCO and NWTS were hired by LNV/Beal in the noticed related cases *LNV v. Fauley; Case No. CV15040532* and *Fauley v. Washington Mutual et al (LNV), Case No. 3:13-cv-00581-AC*. RCO attorney John Thomas personally showed Defendant and Beal victim

Robynne A. Fauley what he purported was the "original" Fauley Note which Defendant and Ms. Fauley determined by their observation of certain characteristics on the document that is was not the "original" Note but a forgery. Other Beal victims have observed similar characteristics on alleged "original" Notes shown to them by LNV, attorneys hired by Beal/LNV, and/or other Beal employees. Whether or not these purported "original" Notes are forgeries is not only material as to whether or not LNV has standing to foreclose, but is material as to whether or not the owner of LNV, Daniel Andrew Beal, and the attorneys he hires and the owners and employees of DMI are committing first degree felony crimes of forgery of financial instruments with intent to defraud for personal gain.

On page 2, number 2 of attorney Weinstock's letter he states: "DMI advised MGC that DMI does not conduct foreclosures with affidavits with such characteristics." (The characteristics referred to are those characteristics consistent with "robosigning" as specified in the Texas Attorney General's October 4, 2010 letter to MGC which are also the characteristics defined by the United States in the criminal conviction of Lorraine Brown as being the products of her crimes.) If this is/was true then why have the Beal victims in the noticed related cases articulated instances where DMI (and MGC/LNV/Beal) have in fact submitted affidavits produced by robosigners? In the Breitling case LNV submitted to the court an affidavit of Edward J. Bagdon to support its motion for summary judgment in *LNV v. Breitlings;* Case No. DC-14-0405. The Beal victims collectively researched Edward J. Bagdon and located more than 100 mortgage related documents signed by him. A comparison of 57 of these signatures show a high probability that at least five different individuals made these signatures. Additionally Edward J. Bagdon signed these documents as a top executive officer of numerous different financial institutions when he was in fact not employed by any of them, but was an employee of

DMI. (Interestingly in his affidavit submitted to the court by the LPS affiliated law firm, Codilis & Stawiarski, in the Breitling case he fails to identify any employer.) This behavior by Edward J. Bagdon is consistent with the manner and means used by Lorraine Brown in the commission of her crimes where the United States claimed and the judges of the U.S. District Court for the Middle District of Florida determined Brown and her co-conspirators allowed other individuals to mimic their signatures and sign mortgage related documents without the requisite authority to do so. This collection of signatures consistent with "robosigning" purportedly made by Edward J. Bagdon, an employee of DMI, also disputes Beal/MGC attorney Weinstock's statement on page 2, number 2 of his letter: "DMI advised MGC that DMI does not conduct foreclosures with affidavits with such characteristics."

Edward J. Bagdon's affidavit in the Breitlings' case is dated June 17, 2014. (See *LNV v. Breitlings; Case No. DC-14-0405*.) This affidavit is included in Defendant's Exhibit C attached hereto. This exhibit also includes a comparison of the 57 Edward J. Bagdon signatures on mortgage related documents made between 1993 and 2014. The Breitlings had included this comparison in their own exhibits to show Edward J. Bagdon is in fact a "robosigner" whose activities are consistent with the activities identified as being criminal in the October 4, 2010 letter sent to MGC by the Texas Attorney General's office; and by the United States as being an act of conspiracy in a scheme and artifice to defraud in its criminal conviction of Lorraine Brown.

Lorraine Brown was incarcerated for her crimes in June 2012. So this Edward J. Bagdon affidavit produced in June 2014 along with the magically appearing Jason J. Vecchio and Dana Lantry endorsed allonges produced and submitted to this court in November 2014 by LNV/Beal's Perkins Coie attorneys in the present case and the noticed related Fauley case could

only have been produced by Brown's co-conspirators. (The United States identified unknown co-conspirators in their conviction of Brown.)

Daniel Andrew "Andy" Beal stands to gain the most personally from the use of this Edward J. Bagdon "robosigned" affidavit in the Breitlings' case; and the false and forged Jason J. Vecchio and Dana Lantry endorsed allonges in the present case; and the false and forged Jason J. Vecchio allonges and forged Notes in the other noticed related cases. He is the sole owner of Beal Bank SSB, Beal Bank USA, Beal Financial Services, Beal Service Corporation and the many subsidiaries of these entities including but not limited to LNV, MGC, LPP, CLMG Corporation ("CLMG"), CXA Corporation ("CXA") and its many clones (i.e. CXA Corp. CXA-1 to CXA-32 Corp. etc); BRE Inc, ("BRE") its many clones (i.e. BRE-1 to BRE-20 Inc. etc); Southgate Master Fund LLC ("Southgate"); Bemont Investments LLC ("Bemont"); BPB Investments LC, and hundreds of other shell corporations.

Daniel Andrew "Andy" Beal is the sole beneficiary of the gains from the foreclosures he perfects using these false and forged documents. His crimes go beyond those of Lorraine Brown in that he not only knowingly uses the products of her crimes; he falsely produces his own forged documents consistent with the conspiracy acts and intentionally uses them to deceive courts and to thereby intentionally deprive Defendant and the other Beal/LNV victims in the noticed related cases of their property without due process.

The United States convicted Lorraine Brown of a felony cognizable by a court of the United States (i.e. The United States District Court for the Middle District of Florida). Defendant and the Beal/LNV victims in the other noticed related cases have told the various courts (i.e. judges) that they are victims of the crimes of Lorraine Brown and that the assignments of deed of

trust or mortgage, the Mortgage Notes, the allonges and the affidavits produced by LNV are forgeries consistent with the crimes of Lorraine Brown and her co-conspirators and that the owner of LNV, Daniel Andrew Beal, as well as the LPS attorneys and agents he hires are Brown's co-conspirators.

Title 18 U.S.C. § 4 states:

> "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to **some judge** or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

Defendant and the Beal/LNV victims in the other noticed related cases have been telling persons with civil authority including judges, their local police, their district attorneys, their state attorneys, and the FBI about these crimes since 2012 and they have been consistently IGNORED!

Title 18 U.S.C. § 4 is unconstitutional in that it doesn't mandate a judge to take any specific action once they become aware of "the actual commission of a felony cognizable by a court of the United States." The statute instructs all citizens they MUST tell a judge about the crime or they will be guilty of a crime themselves and "shall be fined under this title or imprisoned not more than three years, or both."

Defendant and the Beal/LNV victims in the other noticed related cases are certain that if any of them were to forge a negotiable instrument with intent to defraud for personal gain, the same judges who turn a deaf ear and blind eye to LNV/Beal doing so, would most definitely report their crimes to the FBI or local law enforcement for investigation and prosecution. Because Title 18 U.S.C. § 4 permits judicial discretion this statue results in arbitrary and biased

enforcement that violates the constitutional rights of Defendant and the Beal/LNV victims in the other noticed related cases. Defendant and the other LNV/Beal victims are deprived of their right to equal protection of the law under the fourteenth amendment to the United States Constitution; and because these crimes can and do result in deprivation of the Beal/LNV victims' property and their liberty to fully enjoy their property often for many years; it also deprives them of their right to due process under the fifth and the fourteenth amendments to the United States Constitution.

Constitutional Question 1

Is it an unconstitutional deprivation of due process and equal protection of law for a state or federal judge to ignore the actual commission of a felony cognizable by a court of the United States (because Title 18 U.S.C. § 4 apparently gives them discretion to do so); and is it unconstitutional for judges to fail to take action to ensure a criminal investigation by law enforcement is initiated; when a judge's failure to do so can and does result in deprivation of life, liberty and property for the victims of the unreported crime?

Constitutional Question 2

When a state or federal judge becomes aware of an actual commission of a felony cognizable by a court of the United States and fails to take action to ensure that a criminal investigation by appropriate law enforcement is initiated could/should that judge be fined or imprisoned under Title 18 U.S.C. § 4; and if not wouldn't this then be unconstitutional because it would create an unequal application of the law (i.e. citizens suffer consequences for violating Title 18 U.S.C. § 4, but judges who violate Title 18 U.S.C. § 4 and thereby commit a crime

would not be punished; (it is well established that judicial immunity does not extend to prosecution for a crime); and if that judge's failure to act pursuant to Title 18 U.S.C. § 4 deprived victims of these unreported crimes of their constitutional rights to due process and equal protection of law wouldn't this then also violate that judge's constitutionally mandated oath of office to uphold the Constitution of the United States?

Constitutional Question 3

In the situation portrayed by Constitutional Question 2 when a judge fails to take action to ensure that a criminal investigation by law enforcement is initiated pursuant to Title 18 U.S.C. § 4; and that judge becomes aware of the crime through litigation in a civil action where a victim of that crime is a party to the litigation and asserts he/she is such a victim and pursuant to rules of evidence shows evidence of such to the court; and these crimes involve the forging of mortgage related instruments intended to deceive a court as to the title interests of real property; but that judge ignores such evidence of the crime and ultimately summarily rules against the interests of the crime victim without a trial on the merits; and the result of that summary ruling deprives that crime victim of their property and their financial liberty and greatly diminishes that crime victim's quality of life; would this judicial decision be unconstitutional; and would this judge's order therefore be void because it was derived from an unconstitutional deprivation of the crime victim's rights to due process and equal protection of law?

If a court's decision is plainly contrary to a statute or the constitution, the court will be held to have acted without power or jurisdiction, making the judgment void. *United States v. Indoor Cultivation Equip., 55 F.3d 1311, 1317 (7th Cir. 1995).*

A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. *Earle v. McVeigh, 91 US 503, 23 L Ed 398*; See also *Prather v Loyd, 86 Idaho 45, 382 P2d 910.*

The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. *Hanson v. Denckla, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.*

Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. *Earle v McVeigh, 91 US 503, 23 L Ed 398.*

A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. *Sabariego v Maverick, 124 US 261, 31 L Ed 430, 8 S Ct 461*, and is not entitled to respect in any other tribunal.

Defendant and the other Beal/LNV victims in the other noticed related cases are instructed via Title 18 U.S.C. § 4 that they **must** report crimes to their local law enforcement, and they have done so. But their local law enforcement told them they need to go to the FBI, and again they have done so. Because the Beal/LNV victims live in so many different states and cities their individual reports fail to give local FBI offices an understanding of the magnitude of the Beal enterprise crimes. Also because the crimes are "foreclosure related" local police and sheriff's departments don't take the reports seriously and have told Defendant and the other

Beal/LNV victims or that this is a civil matter for the courts (i.e. they put the onus on judges to do the right thing); and then judges in turn routinely fail to take these crimes seriously.

This is a serious matter of public interest. Title 18 U.S.C. § 4 mandates citizens with knowledge of the actual commission of a felony cognizable by a court of the United States (Beal is doing exactly the same thing Lorraine Brown was convicted and imprisoned for doing and worse) yet when citizens do as Title 18 U.S.C. § 4 mandates and make the crime known to **some judge** or other person(s) in civil or military authority under the United States, nothing is done investigate or put a stop to the crimes consistent with this criminal conspiracy (already identified as a criminal conspiracy in *United States of America v. Lorraine Brown*). The lives of the victims of these crimes are destroyed; their credit is wrongfully damaged; their shelter is wrongfully taken from them, their entire life work effort and financial security is stolen from them at the very point in their lives when they are most vulnerable and least likely to recover from such a horrendous loss – often when they can no longer work and must live on a limited retirement or disability income. Had they had not become victims of this horrifying crime they would have had the liberty to sell their property and use their equity to buy a smaller less expensive property and live their retirement debt free; but their liberty to make such choices was stolen from them by Beal/LNV. Daniel Andrew Beal perpetrates his crimes with intent to steal homes from some of our most vulnerable citizens, the elderly, the disabled, minorities, single mothers; he destroys lives and displaces families so he can gamble away millions of dollars a year. (See Defendant's Exhibit D attached hereto.)

Beal also uses his ill-gotten wealth earned from his corrupt organization's criminal activities to pay thousands of attorneys to obstruct justice and/or thwart justice and/or commit fraud upon the court in Defendant's case and the cases of the other LNV/Beal victims in the

noticed related cases. Brown was not convicted of criminal forgery because she herself did not use the false and forged instruments she produced with intent to personally enforce such instruments for her own personal gain. (In law if one forges a signature of otherwise alters an instrument the act is not considered felony forgery until someone with knowledge that the instrument is forged attempts to enforce the instrument for his/her personal gain. Daniel Andrew Beal has such knowledge and intentionally seeks to enforce such forged instruments, as he has in Defendant's case, and in the other noticed related cases.

Pertinent sections of *ORS § 165.013(1)(a)* (Forgery in the first degree) state:

> "A person commits the crime of forgery in the first degree if the person violates ORS 165.007 (Forgery in the second degree) the written instrument is or purports to be any of the following:
>
> (B) Part of an issue of stock, bonds or other instruments representing interests in or claims against any property or person;
>
> (C) A deed, will, codicil, contract or assignment;
>
> (E) A public record;

Pertinent sections of § 165.007(1)(a) & (b) (Forgery in the second degree) state:

> "A person commits the crime of forgery in the second degree if, with intent to injure or defraud, the person falsely makes, completes or alters a written instrument; or utters a written instrument which the person knows to be forged."

ORS § 165.013(3) (Forgery in the first degree) states:

> "Forgery in the first degree is a Class C felony. [1971 c.743 §153; 1993 c.680 §25; 2005 c.761 §1]"

Pertinent sections of *18 U.S. Code § 495* (COUNTERFEITING AND FORGERY specific to contracts, deeds, and powers of attorney states:

> "Whoever falsely makes, alters, forges, or counterfeits any deed, power of attorney, order, certificate, receipt, contract, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or

> indirectly, to obtain or receive from the United States or any officers or agents thereof, any sum of money; or
>
> Whoever utters or publishes as true any such false, forged, altered, or counterfeited writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or
>
> Whoever transmits to, or presents at any office or officer of the United States, any such writing in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited—
>
> Shall be fined under this title or imprisoned not more than ten years, or both."

Both Oregon and U.S. code is clear about the definition of forgery and that it is a crime. Courts are offices of the United States. Judges are officers of the United States. As such when courts are defrauded the United States is defrauded. LNV/Beal has in Defendant's case and in the other noticed related cases presented to judges, as officers of the United States, false, altered and forged assignments of deed or mortgage; Mortgage Notes, allonges to Mortgage Notes and affidavits. He does this with intent to defraud these judges knowing they would rely on these false, altered and forged instruments as being genuine; and that through this predictable judicial reliance the probability is high that these judges will grant LNV/Beal summary judgment rulings that directly harms Defendant and the other LNV/Beal victims who are also pro se litigants in the other noticed related cases by unjustly and unconstitutionally depriving them of their property. The United States is also harmed the because it erodes the public's confidence in our judiciary as a branch of the United States; which in turn undermines public confidence in the government of the United States as a whole. The individual judges who were deceived are also harmed because fraud makes their judgments void; and too many void judgments tarnish a judge's reputation.

Whenever mass incidents of judicial abuse of discretion and blatant violations of due process and equal protection of law are rampant, with judges who ignore evidence and statute

and grant summary judgments favoring very wealthy financial institutions (and wealthy parties like LNV and Beal who pretend to be financial institutions and use fraud to gain the bulk of their wealth), the public loses faith in our judiciary's impartiality and its willingness to perform its constitutionally dictated duty to uphold the United States Constitution. The United States also loses credibility among foreign governments and the public of foreign countries. For centuries the United States has been the shining example of what a democratic form of government should be; a beacon of hope to the oppressed everywhere and a form of government that inspires those living in non-democratic nations to fight for their own human rights and to establish a democratic form of government in their own countries that mimics our form of government. This shining image the United States has enjoyed for centuries is tarnished when the United States government appears to allow wealthy parties like LNV/Beal to violate laws, commit cognizable crimes and to thereby steal property from citizens with government sanction through what appears to be a corrupt and biased judiciary.

Defendant wishes to make it clear that she does not believe all or even most judges are corrupt, although she and the other LNV/Beal victims have good cause to believe that at least some judges in the noticed related cases (specifically in the *LNV v. Breitlings* and the *LNV v. Gebhardt* cases) may be corrupt and that the obvious appearance of such impropriety warrants an investigation by the FBI; however many factors, not the least of which is a lack of funding, coupled with a surge of non-criminal pro-se litigants defending their property title rights in courts has overwhelmed the judicial system. However this is not an excuse to unconstitutionally deprive those pro se masses flooding the courts of their property without due process and equal protection of law. Throwing these cases out of our courts as quickly as possible with summary judgments is not the solution to the problem, and has the potential to exponentially increase court

costs when these cases are re-opened and judgments vacated as being void due to their unconstitutional basis.

At least one federal judge recognizes the constitutional problems inherent in abuse of summary judgments by his federal judge colleagues. The Honorable Mark W. Bennett in his essay: "From the 'No Spittin', No Cussin' and No Summary Judgment' Days of Employment Discrimination Litigation to the 'Defendant's Summary Judgment Affirmed Without Comment' Days: One Judge's Four-Decade Perspective" 57 N.Y.L. Sch. L. Rev. 685 (2012–2013) writes:

> "Nearly seventy-five years after its birth, the time has come to bury summary judgment. The funeral should be swift, dignified, and joyous. The autopsy would reveal that the cause of death was abuse and overuse by my federal judge colleagues. Summary judgment abuse and overuse occurs in all types of cases, but is especially magnified in employment discrimination cases… Unfortunately, my colleagues have become increasingly unfriendly to plaintiffs' employment discrimination claims. I believe there are six primary reasons for this "unfriendliness" or what many scholars have observed as "hostility": 1) too many frivolous employment discrimination lawsuits; 2) an overworked federal judiciary; 3) increased sophistication of employers; 4) increasingly subtle discrimination; 5) implicit bias in judicial decisions; and 6) a shift among judges from trial judging to case managing… The time has come to recognize that summary judgment has become too expensive, too time-consuming for the parties and the judiciary, and too likely to unfairly deprive parties—usually plaintiffs—of their constitutional and statutory rights to trial by jury. I am willing to throw out the baby with the bathwater because the culture of unjustly granting summary judgment is far too ingrained in the federal judiciary to reverse course. There is simply no empirical evidence that summary judgment is efficient or fair. Failing elimination of summary judgment, dramatic modifications to Rule 56 of the Federal Rules of Civil l Procedure should be made to help eliminate its disparate and unfair impact."

Apparently the same "unfriendliness" observed by the Honorable Mark W. Bennett and what and scholars call "hostility" of judges towards plaintiffs' in employment discrimination claims is also reflected toward homeowners fighting off fraudulent foreclosures on their homes. In fact Ms. Gebhardt pointed out in a motion she filed to recuse Judge Varlan because he appeared to be biased against her that his record showed he had not even once ruled in favor of a

homeowner and that he had a tendency to rule unfavorably in other civil rights cases, mostly employment discrimination cases. When the judiciary shows blatant bias and discrimination against crime victims in danger of losing their homes to fraud the emotional damage further inflicted these victims is severe; the crime victims are being treated by the courts as if they are the criminals. Actually, criminals have more access to the courts that these crime victims. This is not supposed to happen in the United States. The public interest is served by protecting our constitutional rights to due process and assuring equal and fair justice, quoting from "*Access to the Courts: An Essay for the Georgetown University Law Center Conference on the Independence of the Courts*" by David S. Udell and Rebekah Diller, respectively, Director and Counsel of the Justice Program of the Brennan Center for Justice at the New York University School of Law:

> "In this Essay, we argue that the gap between America's promise of equal justice and the reality of justice on the ground is substantial, and growing. Meaningful access to the courts—consisting of representation by counsel, the ability to physically enter court and understand and participate in the proceedings, and the opportunity to have claims heard is increasingly out of reach for many Americans. First, there are not enough lawyers available to represent low-income people in civil legal matters, resulting in four-fifths of the civil legal needs of low-income individuals going unmet. Second, in the criminal justice system, where the right to counsel for the indigent is constitutionally guaranteed, attorneys are commonly underpaid, under-supervised, under-resourced and, ultimately, unable to provide effective representation. Third, for people with physical or psychiatric disabilities, court buildings and court procedures pose obstacles that may be insurmountable. Fourth, for people with limited English proficiency, the lack of translation and interpreting services in many of the nation's courts also poses barriers that are often overwhelming. Fifth, the role of the courts is increasingly circumscribed by laws and by court decisions that eliminate whole categories of claims from the courts' jurisdiction. Sixth, increased and often mandatory reliance on alternative dispute resolution has placed judicial review out of reach for an increasing number of people. These six factors, we argue, daily threaten the ability of our courts to perform their essential functions: providing predictable and fair dispute resolution, acting as a check on the legislative and executive branches, protecting the most vulnerable from the excesses of majoritarianism, and reaffirming the citizenry's faith in the legitimacy of the courts and of government in general. Finally, we conclude by offering a set of policy solutions aimed at stabilizing our courts, promoting their independence, and fulfilling the promise of equal justice."

If federal judges were not left to their own devices (which has proved in at least these seven noticed related cases to have had an unconstitutional disparate and biased impact) and were instead mandated by Title 18 U.S.C. § 4 to report the crimes of Daniel Andrew "Andy" Beal that are consistent with the crimes identified by the United States as being acts of a criminal conspiracy in *United States of America v. Lorraine Brown* to their local FBI offices as Title 18 U.S.C. § 4 implies but does not explicitly mandate; then the FBI would respect the authority of these judges and immediately investigate these criminal activities; whereas local FBI field offices have apparently ignored the many reports made to them by LNV/Beal victims who reside in multiple states because these local FBI field offices are unable to connect each local report to Daniel Andrew "Andy" Beal and his corrupt organization and to a larger pattern of such crimes occurring across the country. Also like the local police and sheriffs' offices, local FBI field offices are likely to consider these reports as civil and not criminal because they involve foreclosures and refer these crime victims, as they have in fact done, back to the courts where these crime victims have experienced a vicious catch-22 cycle in attempting to and being barred from access the courts to voice their complaints.

This unconstitutional failure of Title 18 U.S.C. § 4 to mandate judicial action by judges to report crimes has a disparate and unfair impact on the victims of such crimes already traumatized and financially damaged by the crimes perpetrated against them; and who are then further traumatized and victimized by the very judiciary they trusted to give them justice.

Were the FBI to investigate Daniel Andrew "Andy" Beal and his corrupt organization they would discover that Beal's criminal conspiracy expands Brown's criminal conspiracy to include falsified claims of mortgage default and subsequent theft of property for his own

personal gain via intentional use the products of Brown's crimes (i.e. forged mortgage related documents) and new forged mortgage related documents created as a result of Beal's personal instruction. Beal intentionally used these forged mortgage related documents to wrongfully foreclose on properties. He submitted such forged mortgage related documents to courts in foreclosure complaints he initiated against Beal victims in the noticed related cases and against other Beal victims not yet named. Beal had first caused these forged mortgage related documents to be filed via his MGC and other Beal enterprise entities into county land recorders offices across the county through the mail and through wire transmissions, with intent to deceive judges knowing that courts would then rely on these forged mortgage related documents as being genuine. Beal did this with intent to wrongfully foreclose on properties, while denying his victims their constitutional rights to due process and equal protection of law, and to thereby steal these properties for his own personal gain through his deception, i.e. fraud upon the courts and at the expense of Defendant and the other Beal/LNV victims in the noticed related cases.

Defendant never in defaulted on her mortgage. Litton wrongfully attempted to foreclose on Defendant's property in 2006/2007. Litton's attorneys told Defendant's attorney that their client had no financial incentive to call off the trustee sale. In a letter dated October 25, 2006 from my attorney, Elizabeth Lamoine, to Litton's Mr. Gallardo she wrote:

> "…when we proposed a settlement with your company on August 30, 2006, Mr. Benny Hibler informed me that your company had no 'incentive' to settle, as the equity our client possessed in the residence was 'more than adequate' to satisfy the amount you sought in the sale."

(See the 2nd paragraph of Defendant's Exhibit E.) Ms. Lemoine had proved to Litton that Defendant had not missed a single payment that EMC Mortgage Inc, ("EMC") claimed she had missed; i.e. there was never a genuine default.

Unknown to Defendant and her attorney in 2006/2007 Litton and/or GMAC-RFC (Residential Funding Company LLC fka Residential Funding Corporation, subsidiaries of GMAC) had filed a substitution of trustee document and an assignment of Defendant's deed of trust falsely purporting to transfer beneficial interest to GMAC-RFC from People's Choice Home Loans in 2006. This is a legal impossibility because People's Choice had no beneficial interest in Defendant's deed of trust in 2006, because based on expert testimony available to the court People's Choice had sold all beneficial interest in Defendant's deed of trust to the BSABS 2004-HE4 Bear Stearns Asset Backed Securities Trust (the "BSABS 2004-HE4 Trust" or "Trust" prior to May 1, 2004. Defendant discovered these false and forged documents that Litton and GMAC-RFC caused to be filed with Washington County Recorder's office via wire transmission only in 2012; and she discovered that her loan was sold into the BSABS 2004-HE4 Trust in November 2012.

Defendant attached as "Exhibit F" to her objection to MGC's motion to dismiss in her related case *Subramaniam v. Beal et al*, Case No. 3:12-cv-01681-MO a copy of this assignment of deed of trust filed on June 28, 2006 and pointed out several reasons why this document was a forgery consistent with the crimes of Lorraine Brown. Defendant attached as Exhibit G a copy of the information specific to the criminal indictment and plea agreement of Lorraine Brown (at that time Defendant, a pro-se litigant, did not know in 2012 she could/should have filed a motion for judicial notice.) It didn't matter because apparently judges think they have discretion to ignore or deny motions for judicial notice of adjudicative fact pursuant to Federal Rule 201(c)(2) in spite of the language of the rule: "The court **must** take judicial notice..."

Judge Michael Wise Mosman summarily dismissed Defendant's claims in *Subramaniam v. Beal* with prejudice without ever adjudicating any of her claims. Like with the other Beal victims, Defendant's claims have never been heard by any court.

From *US v. One Star Class Sloop*, No. 08-1152 (1st Cir. 2008):

> "[A]n abuse of discretion occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them." Coutin v. Young & Rubicam P.R., Inc., 124 F.3d 331, 336 (1st Cir. 1997) (citation and internal quotation marks omitted). Within this rubric, "an error of law is always tantamount to an abuse of discretion." Torres-Rivera, 524 F.3d at 336.
>
> "An abuse of discretion occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them....

Certainly whether or not an assignment of deed of trust is genuine or a forgery is material to the standing of a party seeking to foreclosure on property via that instrument. *Subramaniam v. Beal* arose from an attempt to foreclose and sell Defendant's property in September 2012. The present case (*LNV v. Subramaniam)* arises from the same party "LNV" now attempting a judicial foreclosure using the same forged instruments with the addition of newly forged instruments; and claims that re judicata bars Defendant from relief she would have had in 2012 and that her fraud claims discovered in 2012 are now time barred because Judge Mosman dismissed her claims with prejudice.

This type of legal maneuvering is a pattern in LNV foreclosure related cases specific to the LNV/Beal victims in the noticed related cases; and it is designed to obstruct justice and to deprive the LNV/Beal victims of their constitutional rights to due process and equal protection of law.

Judge Mosman made no reference in his written order that addressed any of Defendant's claims in her pro se pleadings in *Subramaniam v. Beal*; the primary thrust behind Judge Mosman's decision seems to have come from MGC and Northwest Trustee Services ("NWTS") arguments along the line of "we didn't get away with it (i.e. the non-judicial foreclosure wasn't perfected) so no harm done and case should be dismissed."

Material factors deserving significant weight were ignored by Judge Mosman who made no determination specific to title of Defendant's property which was a central issue in dispute between the parties in *Subramaniam v. Beal* in 2012; and is now in 2015 the central issue in dispute between the parties in *LNV v. Subramaniam*.

Constitutional Question 4

Is Federal Rule 56 as it is written and used unconstitutional in that it has become an over-used method for federal judges to clear their dockets; making it a breeding ground for judicial bias, discrimination and judicial abuse of discretion that denies far too many citizens meaningful access to the courts and violates their constitutional rights to due process and equal protection of law as it has the for the Defendant in the present case, and the other LNV/Beal victims in the noticed related cases?

"These phrases [due process] in the constitution do not mean the general body of the law, common and statute, as it was at the time the constitution took effect; for that would seem to deny the right of the legislature to amend or repeal the law. They refer to certain fundamental rights, which that system of jurisprudence, of which ours is a derivative, has always recognized."

Brown v. Levee Com'rs, 50 Miss. 468. "Due process of law, as used in the constitution, cannot mean less than a prosecution or suit instituted and conducted according to the prescribed forms and solemnities for ascertaining guilt, or determining the title to property." *Embury v. Conner*, 3 N.Y. 511, 517, 53 Am.Dec. 325. And see, generally, *Davidson v. New Orleans*, 96 U.S. 104, 24 L.Ed. 616.

"A judgment is a void judgment if the court that rendered the judgment acted in a manner inconsistent with due process." *Klugh v. U.S.*, D.C.S.C., 610 F. Supp. 892, 901.

"Res judicata consequences will not be applied to a void judgment which is one which, from its inception, is a complete nullity and without legal effect," *Allcock v. Allcock*, 437 N.E.2d 392 (Ill.App.3 Dist. 1982).

Pro se litigants, as well as those represented by counsel, are entitled to meaningful access to the courts.' Sufficient access to the courts, a right protected by the due process clause of the fourteenth amendment6 and the first amendment, guarantees to all persons use of the judicial process to redress alleged grievances. See *Bounds v. Smith*, 430 U.S. 817, 825 (1977); *Wolff v. McDonnell*, 418 U.S. 539, 579 (1974); *Johnson v. Avery*, 393 U.S. 483, 488 (1969).

A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. *Earle v. McVeigh*, 91 US 503, 23 L Ed 398. See also Restatements, Judgments 4(b). *Prather vLoyd*, 86 Idaho 45, 382 P2d 910.

Meaningful access to the courts is a fundamental constitutional right. See *Bounds v. Smith*, 430 U.S. 817, 828 (1977); *Johnson v. Avery*, 393 U.S. 483, 485 (1969). The importance of the right of access has long been recognized by the Supreme Court. See, e.g., *Chambers v. Baltimore & Ohio R.R.*, 207 U.S. 142, 148 (1907). The right of access protects a litigant's interest in using the judicial process to attain redress of grievances. See *Bounds v. Smith*, 430 U.S. 817, 825 (1977); Wolff, 418 U.S. at 579; Johnson v. Avery, 393 U.S. 483, 485 (1969). For pro se litigants, the right guarantees all the means necessary to ensure an adequate hearing on all alleged grievances. See *Gilmore v. Lynch*, 319 F. Supp. 105, 110 (N.D. Cal. 1970) (per curiam), aff'd sub nom. *Younger v. Gilmore*, 404 U.S. 15 (1971) (per curiam). In *Rabin v. Dep't of State*, No. 95-4310, 1997 U.S. Dist. LEXIS 15718 the court noted that pro se plaintiffs should be afforded "special solicitude." One commentator has submitted that no judicial effort is too great if it tends toward just resolution of all pro se claims. See *Flannery & Robbins, The Misunderstood Pro Se Litigant: More than a Pawn in the Game*, 41 Bklyn. L. Rev. 769, 772 (1975).

The present case and the noticed related cases before this court and other courts involve civil litigation stemming from criminal activities. In each of the noticed related cases LNV/Beal and Beal's attorneys have demonstrated a pattern of legal maneuvering designed to prevent discovery and have these cases summarily dismissed or decided in favor of LNV/Beal without any discovery or judicial fact finding because if Defendant and the other LNV/Beal victims were permitted discovery (a necessary ingredient for due process to occur) and judges actually paid attention to the facts uncovered during discovery there would be no question about the criminal

nature of LNV/Beal's activities in regard to Beal's claims against properties belonging to Defendant and the other LNV/Beal victims in the noticed related cases.

As in Defendant's case a self-serving false claim of default started the ball rolling toward foreclosure in the noticed related case of *LNV Corporation v. Gebhardt*. Catherine Gebhardt sent a cashier's check for $6,000 made payable to MGC Mortgage Inc. at the address GMAC gave her (i.e. 7195 Dallas Parkway, Plano, TX 75024) after GMAC told her MGC would be taking over the servicing of her mortgage. This $6,000 payment represented three months of payments of Gebhardt's mortgage. MGC claimed they never received this check. Yet in late 2013 Gebhardt finally obtained a copy of the paid check from her bank; and it shows conclusively that the money was indeed paid on October 29, 2008 to Beal Bank SSB. (Beal Bank SSB and LNV and MGC are all solely owned by Daniel Andrew "Andy" Beal.) In a letter dated June 23, 2011 sent to Gebhardt's Congressman Roe's office written by attorney Erica Thomas who doesn't disclose in the letter she is an attorney (her Texas Bar Card Number is 24042027), but who misrepresents herself as a Vice President of MGC makes numerous false claims about the Gebhardt loan. Specific to this $6,000 payment that cleared on October 29, 2008 as was conclusively paid to Beal Bank SSB; Erica Thomas on page 2 paragraph 1 of this letter states:

> "MGC has received no payments since we acquired servicing of loan form GMAC on or around July 1, 2009."

So what happened to Gebhardt's $6,000? That is a question certainly worthy of an answer through fact finding, i.e. discovery. After all LNV sued Gebhardt for "breach of contract" in *LNV v. Gebhardt* and the breach claimed by LNV was that Gebhardt's defaulted on

the mortgage contract. This evidence indicates that it was actually LNV/MGC/Beal that breached the contract in October 2008 and not Gebhardt.

The returned cashier's check conclusively shows the $6,000 was paid to Beal Bank SSB. MGC made other false claims of missed payments in addition to this one in the Gebhardt case. That MGC misappropriated this payment is conclusive based on the evidence. That MGC used this misappropriated payment to claim Gebhardt defaulted on her mortgage when she in fact had not, is conclusive based on the evidence. It can be inferred that MGC/Beal did this with intent so it could initiate a non-judicial foreclosure sale of Gebhardt's property because the LPS affiliated law firm of McCurdy & Candler served a foreclosure notice on Gebhardt on or around May 16, 2009. Gebhardt thwarted this attempt of fraudulent foreclosure on her property by filing a lawsuit in August 2009: *Gebhardt v GMAC Mortgage et al* case 2009-059-I, in the Circuit Court for Sevier County Tennessee. Like so many victims, in 2009 Gebhardt had no idea about the level of fraud being perpetrated on her; she only knew that she had made payments to MGC that were never credited to her loan; that GMAC told her to make payments to MGC in October 2008 then a few months later GMAC told her the servicing transfer to MGC did not succeed and she was to make payments to GMAC again; but GMAC then claimed she was in default because MGC claimed she had never paid them.

Even though Gebhardt didn't understand why this was happening, Daniel Andrew "Andy" Beal, owner of MGC and LNV, knew exactly what he was doing. He intended to steal Gebhardt's property and get a federal court to sanction his theft. To do this he had to first create a default so he could deceive a court into believing Gebhardt had failed to make payments on her mortgage so LNV/Beal could then unconstitutionally confiscate her property. MGC in behalf of

LNV (.i.e. Daniel Andrew "Andy" Beal) knowingly made false claims of default with intent to deprive Gebhardt of her property without due process or equal protection of the law by intentionally deceiving the court so Beal could unconstitutionally confiscate her property for his own personal gain and to the detriment of Gebhardt. (See Defendant's Exhibit F for a copy of Gebhardt's $6,000 check and Erika Thomas' letter.) (Note: It is highly unlikely that attorney Erica Thomas was actually on MGC's payroll as an employee. Attorney Erica Thomas was most likely working as an independent contractor paid by Beal Bank as such and not as an employee paid with a W2 form.)

Unfortunately Gebhardt's case is not an isolated incident. The same pattern of misappropriated payments, false claims of default, then threats of foreclosure, sham modification offers and eventual foreclosure actions or breach of contract complaints by Beal's MGC and/or LNV and/or LPP has and is repeated with the noticed related cases and with numerous other MGC/LNV/Beal victims across the country.

Were the FBI to investigate Daniel Andrew "Andy" Beal and his corrupt business organization it is highly probable they will discover Beal, his agents or his attorneys have bribed judges as well as attorneys who were hired to represent Beal victims; and that Beal is falsely reporting his earnings to the IRS and to the FDIC then laundering his ill-gotten proceeds overseas. (LNV/Beal victims have evidence to show Beal is laundering money as defined by *18 U.S. Code § 1956*.) Facts in the noticed related cases *Breitlings v. LNV*, Case No. 3:15-CV-00703; *LNV Corporation v. Gebhardt*, and the Swift bankruptcy case is indicative of bribery or improper influence of counsel representing Beal/LNV victims (i.e. attorneys Douglas Taylor, J.D. Milks and Paul Bach); and facts in the *Breitlings v. LNV* case is indicative that Beal/LNV

attorneys Jeffrey Hardaway with Codilis & Stawiarski PC and Luke Madole of Buckley Madole, PC had secret conversations with at least two judges, Texas state judge Dale Tillery and Dallas county judge Jerry Cooper, respectively, for purposes of influencing the decisions of these judges to favor LNV.

The crimes described herein committed by D. Andrew Beal and his agents and his attorneys and others involved in his corrupt organization qualify as "racketeering activity" as defined by *18 U.S. Code § 1961* et al. (i.e. *18 U.S. Code Chapter 96 - RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS*).

18 U.S. Code § 1964(a) states:

> "The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons."

18 U.S. Code § 1964(a) states:

> "The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper."

Defendant and the other LNV/Beal victims in the noticed related cases have been seeking protection from the recognizable crimes being perpetrated against them for many years; and the district courts of the United States are failing to restrain violations of 18 U.S. Code § 1961 et seq. by LNV/LPP/Beal (i.e. the Beal organization and its numerous corporate entities) and failing to

make due provision for the rights of innocent persons. Instead of protecting the rights of innocent persons who are victims of cognizable crimes, (specifically those crimes for which the United States convicted Lorraine Brown for pursuant to 18 U.S. Code § 371 in *United States of America v. Lorraine Brown, Case No. 3:12-cr-198-J-25 MCR, (M.D. Fla.)*; and for altering and forging deeds, assignments of deeds, mortgage contracts, allonges mortgage contracts and utters or publishes as true any such false, forged, altered, or counterfeited writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited pursuant to 18 U.S. Code § 495; and for committing first degree forgery, i.e. with intent to injure or defraud, makes, completes or alters a written instrument representing interests in or claims against any property or person, deed, contract or assignment, public record, or utters a written instruments which the person knows to be forged pursuant to *ORS § 165.013(1)(a)*; and for engaging in monetary transactions in property derived from specified unlawful activity pursuant to 18 U.S. Code § 1957 which are "racketeering activity" pursuant to 18 U.S. Code § 1961(1)), these courts are further victimizing these crime victims by unconstitutionally granting LNV/LPP/Beal summary judgments without ever adjudicating genuine questions of title raised by all the LNV/Beal victims in the noticed related cases.

Furthermore, violations of 18 U.S. Code § 371; 18 U.S. Code § 495; and 18 U.S. Code § 1957 should be cognizable to any federal court judge as "racketeering activity" pursuant to 18 U.S. Code § 1961(1) regardless of whether a pro se litigant specifies these violations in their pleadings or not. A federal judge especially has an obligation under the United States Constitution to protect the public from crime and to protect the constitutional rights of pro se litigants; particularly when they are victims of a crime.

Constitutional Question 5

Does a judge who abuses his/her judicial discretion (i.e. Judge Mosman in the present case and in the noticed related case *Fauley v. Washington Mutual et al (LNV)*, Case No. 3:13-cv-00581-AC also before his court where Judge Mosman similarly ordered a summary dismissal, Judge Thomas A. Varlan in the noticed related case *LNV Corporation v. Gebhardt*, Case No. 3:12-CV-468-TAV-HBG who granted summary judgment to LNV against the preponderance of the evidence and against the law and where he states in his own orders that title is UNCLEAR; and where he has repeatedly denied Gebhardt's many motions for relief from his summary judgment due to fraud upon the court and tampering with evidence by both LNV and court employees; Judge Donald R. Cassling in the noticed related case *Swift Chapter 13 bankruptcy, Case No. 12-35690* in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division who denied the Swifts an adequate continuance to find a new attorney then dismissed their bankruptcy without allowing the Swifts to be heard (i.e. in violation to their constitutional due process and equal protection of law rights) and Judge Dale Tillery who did the same to the Breitlings in the noticed related case *LNV v. Breitlings,* Case No. DC-14-04053 in the 134th Dallas District Court of Texas leaving both of these LNV/Beal victims ill prepared to represent themselves in such complex cases involving title to their properties and where LNV's owner Daniel Andrew Beal has billions of dollars at his disposal to hire an army of attorneys against them to prevent discovery, to obstruct justice, to intentionally derive these pro se LNV/Beal victims of their constitutionally guaranteed rights to due process and equal protection of the law, to commit fraud upon the court by submitting forged instruments, which these officers of the court knew or should have know are forged instruments, as evidence of debt and their client's standing to foreclose on the properties of these LNV/Beal victims to collect LNV's

claimed debt which all these LNV/Beal victims have steadfastly denied is not a valid debt, and then to secure summary judgments favoring LNV by improperly influencing the court; Judge s both federal and state in the noticed related cases; and Commissioner Judge Michael L. Barth of the Maricopa County Superior Court of Arizona who likewise granted LNV a summary judgment in the noticed related case *LNV Corporation v. Tuli Molina Wohl,* Case No. 1 CA-CV 11-0603, in the Court of Appeals, State of Arizona Division One originating from Cause No. CV2011-009999 in the Superior Court in Maricopa County Arizona which resulted in the unconstitutional derivation of LNV/Beal victim Tuli Molina's property and a substantial loss of her quality of life and her liberty as a result), in such cases knowingly and willfully participate in a criminal conspiracy to defraud when they are presented with instruments in their court that are purported by LNV/Beal to be evidence of a valid debt and evidence of LNV/Beal's standing to foreclose on property to collect such debt, which may in fact be forged instruments, and that these forged instruments are likely the products of a convicted felon or her co-conspirators judicially determined to have committed the offense of mail and wire fraud pursuant to 18 U.S. Code § 371, *United States v. Lorraine Brown*, and was criminally convicted of such in favor of the United States; and when the pleadings of these pro se crime victims and the exhibits they attach to their pleadings should be cognizable to any federal judge as acts consistent with the crimes of Lorraine Brown and her co-conspirators; and that these pleadings and exhibits give evidence of further criminal acts of forgery along with acts consistent with engaging in monetary transactions in property derived from specified unlawful activity pursuant to 18 U.S. Code § 1957 and which any federal judge should recognize as "racketeering activity" pursuant to 18 U.S. Code § 1961(1); and yet that federal judge fails to report these racketeering crimes and instead awards the perpetrators with an unconstitutional summary judgment without ever

adjudicating facts specific to title of the property; and that summary judgment has the effect of depriving these crime victims of their property, their liberty to enjoy the financial rewards of their life-long earnings they invested into their properties or their good credit; and such summary judgment has the effect of greatly diminishing the quality of life enjoyed by these crime victims, is that judge then a culpable criminal co-conspirator with LNV/Beal and devoid of judicial immunity and liable for restitution to the victims of these crimes?

As every effective parent knows, the way to rear a child to become a conscientious adult who respects rules and the rights of others is to foster a sense of personal accountability within a child and to establish fair rules and to enforce those rules with uniform, fair and consistent consequences for violations of those rules.

The financial incentive (consequences) for violating the rules in these cases is upside down. As shown when Litton's Mr. Benny Hibler told Defendant's attorney in 2006, Elizabeth Lamoine, that Litton: "…had no 'incentive' to settle, as the equity our client (Defendant in the present case) possessed in the residence was 'more than adequate' to satisfy the amount you sought in the sale."

The criminals in these cases have no financial incentive to stop their crimes because they the can and do get away with their crimes most of the time; specifically because judges allow them to get away with their crimes most of the time; and even when they are caught the penalties awarded to individual consumers are so minute and insignificant in comparison to the $Billions in undue rewards they reap from continuing their crimes that they constitute no deterrent, i.e. no financial incentive to do the right thing rather than the wrong thing.

A major factor behind federal judges' motivation to as quickly as possible grant summary judgments in these cases (besides possible personal bias and improper influence) is the desire to clear their dockets to cut court costs. This perception by federal judges is misplaced and in the end has the potential to dramatically increase court costs and open the floodgates to future re-hearings of all the old cases where they unconstitutionally ordered summary judgments without any determination as to title of the property. Unconstitutional judgments are void judgments and judgments secured through fraud upon the court are also void. No statute of limitation exists on vacating such void judgments.

Judges are public servants. They have a duty not only to uphold the Constitution of the United States but to make wise fiscal decisions. Instead of attempting to cut corners in ways that deny average citizens access to the courts; deprive them of their constitutionally guaranteed rights to due process and equal protection of the law; and that violate their constitutionally mandated oath of office to uphold the Constitution of the United States; and that erodes public confidence in the impartiality of the judiciary these judges would be better government servants stewards of our great Constitution were they to acknowledge the upside down financial incentives inherent in these cases.

Defendant and the other LNV/Beal victims have all suffered unimaginable damages as result of being victimized by the crimes of LNV/Beal and the other Beal organization criminal entities. Most of them have suffered irreparable damage to their credit, (average cost = $500,000); irreparable damage to their health and loss of income as a result; (Defendant's actual cost >= $3,000,000; cost for other victims varies); extreme and prolonged emotional distress (average cost = $1,000,000); prolonged deprivation of their liberty to not only enjoy their

property but their lives because as pro se litigants nearly every waking moment is spent doing legal research and writing to defend themselves in courts where most judges don't even read their pleadings and this causes them to miss out on family events and most of the simple pleasures one enjoys in life (computing a cost on this deprivation is something a professional must calculate to provide adequate restitution.) The list goes on. Yet the courts and judges have routinely denied these victims restitution; and this contributes to the inability for Defendant and the other LNV/Beal victims in the noticed related cases to find counsel – attorneys willing to take on their cases know they cannot without funds adequate to sustain the onslaught of summary judgment motions that history tells them will be filed by LNV/Beal attorneys to delay discovery and a thwart a trial on the merits. LNV/Beal by its own wrongdoing creates an unfair and biased judicial environment where the financial incentive is for continuing the crimes.

The United States Supreme Court (Defendant and the other LNV/Beal victims in the noticed related cases are committed to taking our grievances to the United States Supreme Court if we must to get justice) and the United States Attorney General have a fiduciary and Constitutional duty to examine the Constitutional abuses rampant with the biased, arbitrary and punitive affects of the over use of federal Rule 56 by federal judges and attorneys who represent excessively wealthy clients like LNV/Beal against pro se parties like Defendant and the other LNV/Beal victims in the noticed related cases who are in jeopardy of unconstitutionally losing their properties, their liberty to enjoy their properties and their quality of life or have already lost such as a result of the disparate and unfair impact caused by Rule 56.

The United States Supreme Court and the United States Attorney General have a fiduciary and Constitutional duty to examine the constitutionality of Title 18 U.S.C. § 4 when

crime victims like Defendant and the other LNV/Beal victims in the noticed related cases are caught in a perpetual catch-22 situation because Title 18 U.S.C. § 4 mandates they report the crimes to a judge, yet the judges fail to report the crimes to law enforcement and law enforcement claims their cases are civil and sends them back to the courts; while the crimes continues; their damages as a result of the crimes increase; and the public loses faith in the judiciary and views the judges as participants in the crimes.

As parents of sorts, the United States Supreme Court and the United States Attorney General has the challenge of reining in wayward judges and bring a sense of fairness back to the judiciary; which is vested by the public and where the public is dependent on federal judges especially to honor their constitutionally mandated oath of office to uphold the Constitution of the United States; and too many of these judges are instead violating the constitution rights of due process and equal protection of law.

Defendant never defaulted on her mortgage. Gebhardt and most of the other LNV/Beal victims in the noticed related cases never defaulted on their mortgages. The horrors that have happened to them; through no fault of their own, can happen to any American homeowner at any time if the judiciary doesn't turn around the "financial incentive" and call a crime what it is: "CRIME" and hold those perpetrating these crimes accountable for restitution to the victims of their crimes and prosecute them to the fullest extent of the law.

Respectfully,

Denise Subramaniam

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record, pro-se parties and the United States Attorney General and the Attorney General of the State of Oregon via the Court's CM/ECF system, email, and/or regular mail, and/or certified mail with return receipt requested.

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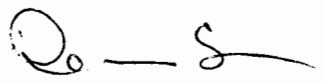
Respectfully Submitted,



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